



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

27 MAR 2015

REPLY TO THE ATTENTION OF:
WC-15J

CERTIFIED MAIL 7011 1150 0000 2639 5667
RETURN RECEIPT REQUESTED

Steve Bos
Windy Ridge Dairy, LLC
1652 North County Road 1100 West
Fair Oaks, Indiana 47943

Subject: Information Request Pursuant to 33 U.S.C. § 1318(a),
Section 308 of the Clean Water Act
Docket No. V-W-15-308-20

Dear Mr. Bos:

This letter and enclosure request certain information from you in connection with your ownership and operation of the dairy facility located at 1652 North County Road 1100 West, Fair Oaks, Indiana 47943. Section 308 of the Clean Water Act (CWA), 33 U.S.C. § 1318, authorizes U.S. Environmental Protection Agency to require those subject to the CWA to furnish information, conduct monitoring, sample effluents, and make reports as may be necessary to carry out the objectives of the Act. Accordingly, pursuant to Section 308 of the CWA, you are directed to provide EPA with the information requested in the enclosure.

Pursuant to Section 308(b) of the CWA, you may assert a business confidentiality claim covering all or part of the information requested herein in the manner described in 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Subpart B, 40 C.F.R. Part 2. If no claim of confidentiality accompanies the information requested herein when it is received, EPA may make the information available to the public without further notice to you. This inquiry is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35. (See 5 C.F.R. § 1320.3(c)).

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to the Information Request within the time specified, or to adequately justify failure to respond, can result in enforcement action by EPA pursuant to section 309 of the CWA, 33 U.S.C. § 1319. The CWA permits EPA to seek the imposition of penalties up to \$37,500 for each day of continued noncompliance. Please be further advised that the provision of false, fictitious, or

fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. All statements provided must be signed by your duly authorized agent and must include certification language required in Section V, paragraph 2 of the Information Request. Please respond in writing with the information requested in the enclosure, within 30 days of receipt of this letter to the following recipient:

U.S. Environmental Protection Agency, Region 5
Water Enforcement & Compliance Assurance Branch (WC-15J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590
Attention: Don Schwer, Agricultural Engineer

Should you have any questions pertaining to this matter, please contact Don Schwer of my staff, at (312) 353-8752.

Sincerely,



Dean Maraldo, Chief
Water Enforcement and Compliance Assurance Branch

Enclosure

cc: Charles Grady, Indiana Department of Environmental Management

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	Docket No. V-W-15-308-20
)	
Windy Ridge Dairy, LLC)	Proceeding under Section 308(a) of the
1652 North County Road 1100 West)	Clean Water Act, 33 U.S.C. § 1318(a)
Fair Oaks, Indiana 47943)	
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INFORMATION REQUEST

I. STATUTORY AUTHORITY

The U.S. Environmental Protection Agency is issuing this Information Request to Windy Ridge Dairy (Windy Ridge Dairy or you) pursuant to the authority vested in the Administrator of EPA by Section 308(a) of the Clean Water Act (CWA), 33 U.S.C. § 1318(a). This authority has been delegated to the Director of the Water Division, EPA Region 5. The Director of the Water Division redelegated this authority to the Branch Chief, Water Enforcement and Compliance Assurance Branch.

II. INSTRUCTIONS

1. You must respond to this Information Request within 30 calendar days of receipt. Submission instructions are in Section V of this Information Request.
2. You must respond separately to each of the requests and subparts of each of the requests. Precede each answer with the number of the request to which it corresponds. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the request to which it corresponds.
3. For each request, identify the person(s) who provided information used or considered in responding to that question, as well as each person consulted in the preparation of that response.
4. If you do not have documents responsive to a particular request, state in your written response that you do not have responsive documents, and provide an explanation of why such documents are unavailable, if applicable.
5. If information and/or documents are not known or not available to you as of the date of your response to this information request and should later become known or available to you, you must supplement your response to EPA. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or

misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response.

6. Where this information request seeks data or records, provide such information in electronically editable, tabular format (e.g., Excel spreadsheet, etc.) where that data already exists in, or can be organized and provided in, electronically editable, tabular format.
7. You must keep the reports and all records reviewed or generated in the course of responding to this Information Request until EPA informs you in writing that you are no longer required to keep the reports and records, or for three years, whichever is sooner.

III. DEFINITIONS

All terms used in this information request have their ordinary meaning unless such terms are defined in the CWA and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply.

1. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings, memoranda, records, or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy, including any form or format of these. If in computer format or memory, each such document shall be provided in translation to a form useable and readable by EPA, with all necessary documentation and support. All documents in hard copy should also include attachments to or enclosures with any documents.
2. The terms "relate to" or "pertain to" (or any form thereof) shall mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating or relevant to.
3. The term "identify" means to provide:
 - a. With respect to a natural person, that person's name, job title, business address, and telephone number;
 - b. With respect to a corporation, partnership, business trust or other association, or business entity (including a sole proprietorship), its full name, address, legal status, and form (e.g., corporation, partnership, etc.), its owners, members, officers and directors, and a brief description of its business; and
 - c. With respect to a document, its customary business description, date, author's identity, addressor, addressee and/or recipient, and the subject matter.
4. The term "facility" or "facilities" means:

- a. Any animal feeding operation(s) (AFO), as defined at 40 C.F.R. § 122.23(b)(1), owned or operated by you; and
 - b. Any associated land application area(s)/site(s), including any field, land and/or property owned, operated, leased, rented, and/or otherwise used by you or under your control that is or may be used to apply manure, litter, and/or process wastewater. See 40 C.F.R. § 122.23(b)(3).
5. The term "manure" includes animal waste (i.e., solid or liquid animal waste), bedding, compost, and raw materials or other materials (used in or otherwise resulting from the confinement of animals) commingled with manure or set aside for disposal, and includes land application.
 6. The term "person" means any individual, business, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, or any interstate body.
 7. The term "process wastewater" means water directly or indirectly used in the operation of the facility for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facility aspects/structures; direct contact swimming, washing or spray cooling of animals; and dust control. "Process wastewater" also includes any water (e.g., precipitation, water used in the facility's operation, etc.) which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, bedding, or other material or product used in, or resulting from, the confinement of animals.
 8. The terms "you" or "your" or "Windy Ridge Dairy" refers to Windy Ridge Dairy, LLC., and to any agents, employees, contractors, or other entities that performed work or acted in any way on behalf of, or at the direction of Windy Ridge Dairy.

VI. INFORMATION REQUEST

Pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, provide the following information to EPA. Provide information for the last five years from the date of receipt of this Information Request, unless a particular request specifies a different time period.

1. Identify all AFOs owned or operated by Windy Ridge Dairy (as defined in the Definitions Section, above). Provide the following information for each facility:
 - a. AFO name;
 - b. AFO address and identification on a map;
 - c. All owners and operators of the AFO;
 - d. Person(s) responsible for managing the AFO's records;

- e. Address of record storage location;
 - f. Type of animal(s) confined at the facility;
 - g. Number and type of animal confinement structures (i.e. number of barns, houses, pens, feedlots, etc.) at the facility; and
 - h. Number and type of manure containment structures at the facility, and indicate the storage capacity for each containment structure.
 - i. For each AFO, identify the owners of the land and building structures upon or within which the AFO operates, provide the property tax identification numbers for such properties, copies of the property records identifying ownership, including property titles, and, if such properties are leased, copies of the leasing agreements.
2. Identify all land application area(s)/site(s) owned, operated, leased, rented, and/or otherwise used by Windy Ridge Dairy or under Windy Ridge Dairy's control (as defined in the definitions Section, above). Provide the following for each land application area:
- a. Land application field name or field ID;
 - b. Location of the field and boundary identified on a map;
 - c. Field size (acres);
 - d. Land application field owner and operator;
 - e. Person(s) responsible for managing the land application records; and
 - f. Address of record storage location.
3. Provide copies of all state-issued Confined feeding operation (CFO) or Concentrated Animal Feeding Operation (CAFO) permits or approvals to operate the facilities identified in Request 1. This includes permit applications and/or notices of intent seeking permit coverage if the facility is not currently permitted, and any attachments/enclosures related to or required by such permits and/or applications and/or notices of intent seeking permit coverage.
4. For each facility identified in Request 1 and 2, provide a copy of the facility's nutrient management plan. This includes comprehensive nutrient management plans, manure management plans.
5. For each separate and distinct date(s) in which manure, litter, and/or process wastewater was applied to a land application area(s)/site(s) in Request 2 since **August 31, 2008**,

provide the following summary of information in an electronically editable, tabular format (e.g., Excel spreadsheet):

- a. Date(s) of application;
 - b. Crop year;
 - c. Field name or field ID;
 - d. Total acres applied;
 - e. Manure, litter, and/or process wastewater source;
 - f. Manure, litter, and/or process wastewater analysis for nitrogen and phosphorus (pounds N and P₂O₅ available per ton or 1000 gallons);
 - g. Manure, litter, and/or process wastewater application rate (ton or 1000 gallons per acre);
 - h. Amount of nitrogen and phosphorus applied to field through manure, litter, and/or process wastewater application (lbs N/acre and lbs P₂O₅/acre);
 - i. Application method;
 - j. Name of person, company, or custom applicator that land applied the manure, litter, and/or process wastewater;
 - k. Weather conditions during application (temperature & precipitation); and
 - l. Soil water conditions at the time of each land application (e.g., dry, saturated, flooded, frozen, snow-covered);
6. For each crop year starting with the 2009 crop year in which manure, litter, and/or process wastewater was applied to a land application area(s)/site(s) in Request 2, provide the following summary of information in an electronically editable, tabular format (e.g., Excel spreadsheet):
- a. Crop year
 - b. Field name or field ID;
 - c. Total acres applied;
 - d. Soil test phosphorus level (ppm);
 - e. Crop type;

- f. Actual crop yield or estimated crop yield when actual crop yield is not available;
 - g. Crop nutrient requirement (pounds N and P₂O₅ per acre);
 - h. Amount of nitrogen and phosphorus applied to field through manure, litter, and/or process wastewater application (lbs N/acre and lbs P₂O₅/acre);
 - i. Additional fertilizer application (lbs N/acre and lbs P₂O₅/acre);
 - j. Previous crop;
 - k. Legume or green manure credits (lbs N/acre);
 - l. Second and third year manure credits (lbs N/acre and lbs P₂O₅/acre);
7. For each crop year starting with the 2009 crop year in which manure, litter, and/or process wastewater was applied to a land application area(s)/site(s) in Request 2, provide the following information:
- a. Test methods used to sample and analyze manure, litter, process wastewater, and soil;
 - b. Results of the manure, litter, process wastewater, and soil tests; and
 - c. Explanation of the basis for determining application rates for manure, litter, and process wastewater.
8. If any of the facilities identified in Request 1 have transferred manure and/or process wastewater to another AFO, farm, or third-party, provide the following information for each such transfer:
- a. Identify the facility that generated and transferred the manure and/or process wastewater;
 - b. Recipient's identity and location where the manure and/or process wastewater was transferred (i.e., recipient's name, farm/facility name, and farm/facility address, etc.);
 - c. Type of facility that received manure and/or process wastewater [e.g., AFO (specify with or without crop fields), crop farm, or other facility];
 - d. Date of transfer;
 - e. Amount of manure and/or process wastewater transferred;

- f. Identify the person/entity who/that transferred the manure and/or process wastewater;
 - g. Copies of contracts and agreements with AFOs, farms, or third-party entities responsible for transferring, receiving and/or applying manure and/or process wastewater and
 - h. Provide your response to this question in an electronically editable, tabular format (e.g., Excel spreadsheet). If you do not possess documentation of such transfers and cannot provide the requested information, provide a narrative response that identifies: all facilities identified in Request 1 that have transferred manure and/or process wastewater; the recipients of the transferred manure and/or process wastewater; and, the person/entity who/that transferred the manure and/or process wastewater.
9. Provide copies of all documents regarding compliance with federal, state, and/or local environmental laws, regulations, and enforcement actions for each facility identified in Request 1 and 2. Such documents should include, but are not limited to, copies of: all inspection and/or site visit reports; and, all federal, state, and/or local enforcement actions against the identified facilities. Provide all records concerning discharges of manure or process wastewater to surface waters, and provide all records concerning events in which manure or process wastewater was land applied in a manner inconsistent with the applicable nutrient management plan.
10. For each facility identified in Request 1 and 2, identify all facility tile drains, swales, ditches, outfalls, or other similar conveyances on a facility diagram or map (e.g., a satellite image of the facility or a U.S. Geological Survey topographic map). Identify all surface waters which are present on and/or abut the facility. Identify any land application area setbacks and surface drainage locations. Identify and label all pivot irrigation systems.
11. Provide copies of any policies, procedures, etc., for monitoring facility process wastewater and stormwater runoff at the facilities identified in Request 1 and 2, including copies of all documents and records of process wastewater and stormwater runoff monitoring and inspection activities that support your response.
12. Provide records for inspections conducted at the facilities identified in Request 1, including the date and name of the person(s) performing the inspection, an inspection description, including components inspected, details of what was discovered during the inspection, recommendations for repair and maintenance, and any corrective actions taken.
13. Provide a list of all custom applicators used for land application of manure and process wastewater for the facilities identified in Request 1.

14. For each facility identified in Request 1 or 2, provide the methods and records for the calibration of land application equipment.
15. For each facility identified in Request 1 or 2, describe the operating procedures for the pivot irrigation systems used to transfer manure from an AFO to land application areas. Provide a diagram of the piping and pumping system for the irrigation systems. Describe how the pivot irrigation structures are managed adjacent to ditches and waterways.
16. Provide a copy of the Limited Liability Company Operating Agreement for Windy Ridge Dairy, LLC.
17. For Windy Ridge Dairy, provide the name and address of each member with an ownership interest in Windy Ridge Dairy and percent ownership held by each. Identify the names of those members that have any relationship or affiliation with T & M Limited Partnership, including but not limited to: financial or commercial relationship; ownership interest; employment with or holding a management position with T & M Limited Partnership. For each such member, describe the nature of such relationship with T & M Limited Partnership.
18. Provide the name, address, and title of each manager (both current and for the previous two years) of Windy Ridge Dairy and identify if such manager is also a member of Windy Ridge Dairy. For each manager, list the duration of the position held by such manager, and describe the position held. Identify the names of those managers that have any relationship or affiliation with T & M Limited Partnership, including, but not limited to: financial or commercial relationship; ownership interest; employment with or holding a management position with T & M Limited Partnership. For each such manager, describe the nature of such relationship with T & M Limited Partnership.
19. Describe fully the nature of the relationship between Windy Ridge Dairy and T & M Limited Partnership. Describe in detail the types of financial or commercial activities that are conducted between Windy Ridge Dairy and T & M Limited Partnership.
20. With respect to any management or supervisory activities, exercise of control, or decision making concerning farming activities at land application fields owned or operated by T & M Limited Partnership, has an employee, agent, contractor, member, or manager of Windy Ridge Dairy ever conducted such activities at any such land application field? If yes, identify the land application field and its location, and a description and timeframe of the activities performed. In addition, provide the entity that compensated such person for such activities and if such activities were conducted during the person's normal employment hours with Windy Ridge Dairy.
21. Other than what has already been identified, identify all equipment, supplies, products, or services that Windy Ridge Dairy, or its employees, agents, contractors, members, or managers have provided to T & M Limited Partnership. For each such transaction, provide the following information: (a) description of services or items provided; (b)

identification of persons involved; (c) timeframe of services or items provided; (d) value of services or items provided; and (e) compensation for services or items provided.

22. Other than what has already been identified, identify all equipment, supplies, products, or services that T & M Limited Partnership, or its employees, agents, contractors, partners, or managers have provided to Windy Ridge Dairy. For each such transaction, provide the following information: (a) description of services or items provided; (b) identification of persons involved; (c) timeframe of services or items provided; (d) value of services or items provided; and (e) compensation for services or items provided.

23. Does T & M Partnership have any ownership interest regarding the land or buildings of any AFO owned or operated by Windy Ridge Dairy. If yes, identify and provide the location and boundaries of the property and provide copies of any leasing agreements Windy Ridge Dairy has with T & M Partnership concerning use of such parcel.

V. SUBMISSION OF INFORMATION

1. You must submit a response to this Information Request within 30 calendar days of receipt to:

U.S. Environmental Protection Agency
Attention: Donald R. Schwer III
Water Enforcement and Compliance Assurance Branch
Water Division, WC-15J
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

2. You must submit all requested information under an authorized signature with the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, which include the possibility of fine and imprisonment for knowing violations.

3. If you find at any time after submitting information to EPA that any portion of the submittal is false or incorrect, you must notify EPA immediately. Knowing submittal of false information to EPA in response to this Information Request may subject you to criminal prosecution under Section 309(c) of the CWA, 33 U.S.C. § 1319(c), and 18 U.S.C. §§ 1001 and 1341.

4. EPA may use the information submitted in response to this Information Request in an administrative, civil or criminal action.
5. There can be significant civil or criminal penalties for failing to adequately respond to requests for information issued under the Section 308(a) of the CWA, 33 U.S.C. § 1318(a).
6. You must provide the information requested even though you may contend that it includes confidential information. You may assert a business confidentiality claim covering any portion of the information requested in this Information Request, as provided in 40 C.F.R. § 2.203(b). Effluent data (as defined in 40 C.F.R. § 2.302(A)(2)) and information in NPDES permit applications are not entitled to confidential treatment. 40 C.F.R. § 122.7.

To assert a confidentiality claim, you must submit the requested information and indicate that you are asserting a claim of confidentiality. You must mark any document over which you assert a claim of confidentiality by attaching a cover sheet stamped or typed with a legend indicating your intent to claim confidentiality. The stamped or typed legend, or other suitable form of notice, should employ language such as "confidential" or "business confidential," and indicate a date, if any, when the information should no longer be treated as confidential. EPA will only disclose the information covered by such a claim to the extent permitted and by means of the procedures set forth in Section 308(b) of the CWA, 33 U.S.C. § 1318(b), and 40 C.F.R. Part 2. You must clearly identify allegedly confidential portions of otherwise non-confidential documents.

Please submit your response to this information request so that all non-confidential information, including any redacted versions of documents, is in one package and all materials for which you desire confidential treatment are in another package. EPA will construe the failure to furnish a confidentiality claim with your response as a waiver of that claim, and the information may be made available to the public without further notice to you. All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information, that you intend to continue to do so, and that the information is not and has not been obtainable by legitimate means without your consent.

If you assert a confidentiality claim for any of the information you submit to EPA, you bear the burden of substantiating that claim. EPA will give conclusory allegations little or no weight in its determination. For each document or response you claim confidential, you must separately address the following points:

- a. The portions of the information alleged to be entitled to confidential treatment;
- b. The period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. Measures taken by you to guard against the undesired disclosure of the information to others;

- d. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. Pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- f. Whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

Finally, EPA may disclose information which you submit in response to this Information Request to authorized representatives of the United States pursuant to 40 C.F.R. § 2.302(h) even if you assert that all or part of the information is confidential business information. Please be advised that EPA may disclose all responses to this Information Request to one or more private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to confidential treatment, you may comment on this potential disclosure to authorized representatives when you submit your response to this Information Request.

- 7. This Information Request is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation.
- 8. Please contact Don Schwer by telephone at (312) 353-8752, or via email at schwer.don@epa.gov, if you have any questions about this Information Request.

Date: _____

3/26/15



Dean Maraldo, Chief
Water Enforcement and Compliance Assurance